IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 16726 of 2004

Between:

M. Venkata Subbaiah, S/o. Subbanna,
Banumayapalli Village, Mydukur Mandal, Kadapa District.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Kurnool,

Kurnool District,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction declaring the action of the 1st respondent herein not releasing Tata Sumo Vehicle bearing No. AP 9X 4012 in favour of the petitioner herein, pending disposal of the Appeal No. 15045/2004 as arbitrary, illegal and unconstitutional and consequently direct the 1st Respondent to dispose of the Appeal, pending before forthwith.

Counsel for the Petitioner: MR.T.NIRANJAN REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

ORDER:

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Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing on behalf of the respondents.

The petitioner claims to be the owner of the vehicle (Tata Sumo) bearing registration No.AP 9X 4012. The said vehicle was seized by the Sub-Inspector of Police, Khazipet, on 21-04-2004 on an allegation that the person travelling in the vehicle was transporting cheep liquor without permit from Mydukur to distribute the same to the voters at Bhaskarreddypally, Harijanavada. On the basis of the said allegations, the Sub Inspector of Police has also registered a case in Crime No.61/2004 of Khazipet Police Station under Section 34 of A.P.Excise Act, 1968 (for short 'the Act') and the same is pending. Thereafter, the 2nd respondent-Deputy Commissioner of Prohibition and Excise, after conducting due enquiry, by order dated 07-07-2004, held that the involvement of the vehicle is clearly established, which is against the provisions of the A.P. Prohibition Act, and accordingly, the vehicle was confiscated to the State under Sub Section (2) of Section 13 of the A.P. Prohibition Act as amended vide Act No. 35 of 1995. The petitioner states that against the said order, they preferred an appeal before the 1st respondent on 24-07-2004 and the same is pending. He further states that though he made an application seeking interim custody of the seized vehicle, the said application has not been considered by the 1st respondent so far. Hence, this writ petition, seeking a declaration that the action

of the 1st respondent in not releasing the vehicle in question pending disposal of the appeal, is arbitrary and illegal.

Having heard the learned counsel for both the parties and on a perusal of material on record, and particularly, in view of the fact that the statutory appeal is pending before the 1st respondent, I am not inclined to go into the merits of the case nor it would be appropriate to express any opinion with regard to the correctness of the allegations made against the petitioner. However, keeping in view the fact that the seizure was effected in the month of August, 2004 and it may take some more time to dispose of the statutory appeal pending before the 1st respondent, the ends of justice would be met, to grant the interim custody of the vehicle to the petitioner, subject to the condition that he furnishes bank guarantee to the value of the vehicle.

Accordingly, the writ petition is disposed of with a direction to the respondents to release the vehicle in question bearing No. AP 9X 4012 in favour of the petitioner, subject to the condition that the petitioner furnishes bank guarantee to the value of the vehicle to the satisfaction of the 2nd respondent. The petitioner shall also give an undertaking before the 2nd respondent that he will not alienate or create any third party interest, till the disposal of the appeal before the 1st respondent. There shall also be a direction for expeditious disposal of the appeal, preferably, within a period of four weeks from the date of receipt of a copy of this order. No costs.

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30-09-2004

vs

To

1 The Commissioner of Prohibition & Excise, Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Kurnool,

Kurnool District,

3 2CCs to the G.P for Prohibition and Excise, High Court Buildings, Hyderabad(O.U.T)

4 2CD copies